

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MAIL PROCESSING NETWORK RATIONALIZATION)
SERVICE CHANGES, 2012)
)

Docket No. N2012-1

**UNITED STATES POSTAL SERVICE MOTION TO COMPEL MORE RESPONSIVE
ANSWERS TO INTERROGATORIES DIRECTED TO NATIONAL ASSOCIATION OF
LETTER CARRIERS, AFL-CIO, WITNESS CREW, NALC-T-1**
(June 6, 2012)

Pursuant to Rule 26(d) of the Postal Regulatory Commission's Rules of Practice and Procedure, the Postal Service respectfully moves to compel more responsive answers to the following interrogatories/requests for production: USPS/NALC-T1-5, 6, 10, 13(a), 14, 15(a-c), 18(d) and 19(b-d). Previous responses filed May 24, 2012 incorporate and rely upon objections articulated within each response, objections that were never formalized in separate pleadings¹ as required by Rule 26(c).² Those objections, moreover, lack merit.³

Rule 26(c) specifies that objections "shall be filed with the Commission in conformance with §§ 3001.9 through 12 within 10 days of the filing of the interrogatories." Rules 9 through 12 pertain, respectively, to the filing of pleadings using the Commission's electronic interface (or hard copy if necessary), the form and number

¹ See, e.g., Public Representative objection regarding USPS/PR-T1-1 (May 31, 2012); APWU objection regarding USPS/APWU-RT3-9 (May 24, 2012); and Postal Service objection to APWU/USPS-212(a) (April 12, 2012).

² Witness Crew also answered interrogatories in PRC Docket No. N2010-1 (Five-Day Delivery) by articulating objections in lieu of, or in addition to, limited responses. See, e.g., responses to USPS/NALC-T4-19(d), 23(a) and 29(b) filed in that docket (August 26, 2010).

³ Professed grounds for objection vary, but one example is vagueness; vagueness in a question may add challenge to responding, and perhaps length to the response, but should not foreclose a response. This challenge is routinely met by consultation with counsel, at least when genuine attempts are made to provide a meaningful response. That avenue remains open.

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

of copies, content of pleadings, and service of documents. NALC has filed no objections on any date in this proceeding. As such, NALC was waived any opportunity to perfect its objections. Rule 26(d) specifies that a motion to compel a more complete response should be filed within 14 days of when the incomplete response was filed. As such, this motion is timely.

Nominal responses to most of the aforementioned interrogatories were filed on May 24, 2010. As such, those interrogatory responses, even if deemed to constitute objections, could not constitute timely filed objections as to questions 5, 6, 10, 13(a) and 14. NALC has accordingly waived its opportunity to file objections to these questions or to have responses deemed objections. Independently, since NALC has filed no objections in this proceeding, and more than 10 days have elapsed since the filing of all the interrogatories, NALC has waived its opportunity to file objections.

Certain interrogatory responses by witness Crew are also non-responsive on their own terms. Such shortcomings are discussed in connection with respective, deficient responses, below.

Each interrogatory is quoted and discussed, below.

USPS/NALC-T1-5. On pages 8-9 of your testimony, you continue asserting the impropriety of using the Juster Scale to adjust for respondent tendency to overstate volume changes.

a. Are you aware that the Postal Service has cited various articles from the academic literature and examples from professional experience justifying use of the Juster Scale in this proceeding?

i. If so, which ones are you aware of?

ii. Which of those identified in response to subpart (i) did you examine either personally or through a research associate who reports to you? What is your evaluation of each and how do you reconcile them with your testimony?

iii. If not, why did you choose to forgo review any of the authoritative literature cited by the Postal Service and its

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

witnesses? Is it customary in your field to avoid review of pertinent, authoritative literature cited by those whose views you oppose?

b. What, if any, authoritative sources can you cite in opposition to use of the Juster Scale to adjust for respondent tendency to overstate quantitative survey responses? Please identify each and provide your evaluation of how it applies to support your opinion in opposition to that of witness Elmore-Yalch.

Witness Crew's response to the interrogatory commences, and later continues, as follows:

I object to Interrogatory USPS/NALC-T1-5 to the extent it asserts that respondents have a tendency "to overstate volume changes" and "to overstate quantitative survey responses. ... I also object to your characterization of the literature cited by USPS as 'authoritative.' I further object to the second question in subsection (a) (iii) as improperly argumentative and not reasonably calculated to lead to the discovery of admissible evidence. Further, I did not refer to the 'Juster Scale' anywhere in my testimony. ... Without waiver of these objections, I respond as follows:

a. No, I am not aware of any articles or examples cited by USPS that justify use of the Juster Scale in this proceeding. I do not believe use of the Juster Scale is justified in this proceeding.

i. See response to (a) above.

ii. See response to (a) above.

iii. I did not believe it necessary to review any literature cited by USPS or its witnesses.

b. The most authoritative source that I am aware of in the context of these proceedings is the Postal Regulatory Commission itself, which in its March 24, 2011 Advisory Opinion on the Elimination of Saturday Delivery, Docket N2010-1, at 113, unanimously found that use of the "probability of change" factor in that case was "not appropriate." Since Docket N2010-1, like this proceeding, involves a proposed reduction in the quality of mail service, I believe the Commission's determination there is fully applicable to this proceeding and supports my opinion.

Witness Crew is not entitled to object to an interrogatory in lieu of a response.

Indeed, witnesses are generally obliged to answer the question posed, to the extent they are able. A response certainly can, if necessary, reflect difficulty in understanding a question, if appropriate, but excusing a response to a particular question altogether by

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

stating an objection is improper. The Postal Service accordingly moves for a more complete response, one that answers all parts of the question.⁴

The matters inquired of in this interrogatory are anything but trivial or minor. The Postal Service has referenced extensive materials, largely from peer reviewed professional journals, to support its position that the market research design utilized complies with current survey research design standards, and accordingly produces results that can and should be relied upon, including by the Commission (to the extent any point estimates of costs/savings bear upon whether Network Rationalization comports with the policies of title 39).

The Postal Service understands from his interrogatory responses that witness Crew's position is that he has not reviewed any of the literature cited by Postal Service witnesses Elmore-Yalch and Whiteman, that he has no need to do so, and that his criticism of the research stands solely on his opinion. But he also purports to be an economic scientist, an industry that relies upon scientific methods for identifying principles; reliable; peer reviewed literature is a key element of the scientific method upon which most scientists generally rely. Witness Crew has only attempted to evade, and not otherwise address, the second question in part (a)(iii) of interrogatory 5. He should accordingly be compelled to respond to the question posed about the standards he applies, or that are applied, in his field. The Postal Service should be provided a full and complete response to its interrogatory, devoid of objections, and without evasion of respective parts. The Postal Service accordingly moves for a more complete response to this interrogatory, unqualified by objection.

⁴ Undersigned counsel is also prepared to discuss a possible stipulation in lieu of a further response.

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

Interrogatory USPS/NALC-T1-6 states as follows:

USPS/NALC-T1-6. On page 9 of your testimony you use a hypothetical coin-flipping example involving a request that individuals estimate how many times 100 tosses would show up heads, followed by a question about how likely each would estimate her response is accurate; positing a response to the first question of 50 times and a response to the second as 80 percent.

a. Please explain how your hypothetical has any bearing upon application of the Juster Scale, which corrects for respondents to overestimate quantitative estimates.

b. What quantitative estimate is involved that respondents overestimate? In your mind, is the estimate of 50 heads an over-estimate? Is the estimate of 80 percent likelihood an over-estimate?

c. What is the likelihood in your example that 100 coin flips would result in 50 heads?

d. What is the likelihood in your example that 40 heads would be the result?

e. Does your hypothetical exemplify, as you assert on pages 9-10, "that the concept of probability is [not] well understood by most survey respondents?"

Witness Crew's response to interrogatory 6 commences as follows:

I object to Interrogatory USPS/NALC-T1-6 to the extent it asserts that respondents "overestimate quantitative estimates." Without waiver of such objection, I respond as follows:

Witness Crew is not entitled to object to questions; he testifies on behalf of a party represented by counsel, who is perfectly able and qualified to lodge an objection pursuant to the Commission's rules and in accordance with standard procedures should that be necessary. The Postal Service is entitled to a full and complete response to its interrogatory. While witness Crew's response to the interrogatory does address each lettered part, the Postal Service has no way of knowing how the prefatory objection served to limit that response. The Postal Service accordingly moves for a full and more complete response to this interrogatory, unqualified by objection.

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

Interrogatory USPS/NALC-T1-10 states as follows:

USPS/NALC-T1-10. On page 3 you state, “USPS’s approach is based on the notion that USPS knows best.”

- a. What, if any, understanding do you have regarding who is responsible for managing the postal business in the United States?
- b. Who, in your best understanding, has been managing the United States Postal Service over the last decade? Has there been any recent change?
- c. Who do you think should be managing the United States Postal Service? Please explain your response.
- d. To what extent do you believe your client, the NALC, should be given greater responsibility for running the United States Postal Service? Please explain your response.
- e. To what extent do you believe the Postal Regulatory Commission is responsible for running the United States Postal Service? Do you think any such responsibility should be increased? Please explain why or why not.
- f. Is it your understanding that economists, whether like you or not, should be given responsibility for running the United States Postal Service? Please explain your answer.
- g. Have you any understanding whether postal management has the benefit of advice from economists? Please explain your understanding and its foundation, or lack thereof.
- h. Who in your opinion “knows best”?

Witness Crew’s response to the interrogatory commences, and continues, as follows:

I object to USPS/NALC-T1-10 to the extent it calls for a legal opinion, to the extent it is improperly argumentative and to the extent it is not reasonably calculated to lead to the discovery of admissible evidence. I also object to the term “running” as vague; I understand the term in this context to mean managing on a day-to-day basis. Without waiver of these objections, I respond as follows:

* * *

d. I object to subsection (d) to the extent it asserts that NALC is my “client” and that NALC currently has a certain responsibility for “running” USPS. Without waiver of these objections,

* * *

h. I object to subsection (h) as vague, argumentative and not reasonably calculated to lead to the discovery of admissible evidence. However, ...

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

This interrogatory inquires as to the meaning and significance of an ambiguous statement in witness Crew's testimony. As the moving party in this proceeding, the Postal Service is both proffering its plan while consulting the Postal Regulatory Commission in the latter's expert capacity; the meaning of what witness Crew states in his testimony is not clear, which interrogatory 10 seeks to clarify. The Postal Service is entitled to a full and complete response to its interrogatory. While witness Crew's response to the interrogatory does address each lettered part—including the further objections noted—the Postal Service has no way of knowing how the prefatory objection served to limit any of the responses. The Postal Service accordingly moves for a more complete response to this interrogatory, unqualified by objection.

Interrogatory USPS/NALC-T1-13 states as follows:

USPS/NALC-T1-13. You discuss on page 4 your conclusion that the survey research was deliberately designed to minimize estimates of volume, revenue and contribution change in response to the proposed service standards changes.

- a. In your expert opinion, did the researchers do a particularly good job, or not, of fulfilling their clear intention? Please explain.
- b. Could the research design have been modified so as to bring the revenue loss estimate down, perhaps below \$1 billion? What steps do you think might have enabled better fulfillment of what you perceive as the goal?

Witness Crew's response to the interrogatory commences as follows:

- a. I object to the term "particularly good job" in subsection (a) as vague. Without waiver of this objection, I ...

Witness Crew's statement directly challenges both the survey research design and the good faith and professional judgment used to construct it—very serious charges of professional malfeasance. In the absence of any real explanation for or evidence to

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

support his conclusions, this interrogatory seeks elaboration upon witness Crew's own understanding of what he says in his testimony. The Postal Service is entitled to a full and complete response to its interrogatory. While witness Crew's response to the interrogatory does address each lettered part, the Postal Service has no way of knowing how the objection served to limit any of the responses. The Postal Service accordingly moves for a more complete response to this interrogatory, unqualified by objection.

Interrogatory USPS/NALC-T1-14 states as follows:

- USPS/NALC-T1-14.** In footnote on page 1 of your testimony you make a statement of a type often heard from economists in Commission proceedings: "It is evident to me that if [First-Class Mail] becomes slower, *ceteris parabus* [sic], its quality has declined."
- a. Is the quotation accurate?
 - b. Do you agree this statement is of a type that economists sometimes make?
 - c. Do you agree that the footnote in which the statement appears reflects your disagreement with witness Whiteman about the significance to First-Class Mail users of delivery speediness?
 - d. Please define speediness of delivery as you use it, distinguishing mailers from recipients.
 - e. Did you review transcripts of the qualitative market research to determine whether any participants shared your opinion about the significance of speed of delivery for First-Class Mail?
 - i. If so, please provide examples of statements (with citations) of what you found, whether couched in the language of economists or otherwise.
 - ii. If not, did you review the transcripts for any purpose?
 - iii. If you did not look at the transcripts for any purpose, do you rely upon any evidence beyond your own opinion regarding the significance of speed for delivery of First-Class Mail? If so, please explain and provide that evidence.

Witness Crew's response to the interrogatory commences as follows:

I object to USPS/NALC-T1-14 to the extent it asserts that my quoted testimony is "a statement of a type often heard from economists in Commission proceedings." Without waiver of such objection, ...

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

This question seeks to explore the foundation for witness Crew's testimony about the significance of what he characterizes as slower delivery of First-Class Mail in a survey research context where speed of delivery is understood as less important to customers than is on-time delivery. The Postal Service is entitled to a full and complete response to its interrogatory. While witness Crew's response to the interrogatory does address each lettered part, the Postal Service has no way of knowing how the objection served to limit any of the responses. The Postal Service accordingly moves for a more complete response to this interrogatory, unqualified by objection.

Interrogatory USPS/NALC-T1-15 states as follows:

USPS/NALC-T1-15. On pages 5-6 you discuss witness Whiteman's testimony regarding the timing of when the volume loss estimated in the market research will occur.

- a. Please confirm witness Whiteman testifies that the survey research was intended to measure change caused by network rationalization in the first post-implementation year, but that he expects some volume changes will lag beyond that year.
- b. Do you agree with witness Whiteman? Please explain your response.
- c. Do you have any understanding of how mail volume processed by the United States Postal Service is trending over the last few years? If so, please state your understanding.
- c. Is the current long term volume trend likely to continue into the next few years? Please explain your response.
- d. Thanks to what causes do you think (as you state on page 6) that "The estimated mail volume drop in 2012 would likely be just the beginning"?
 - i. Upon what evidence do you base your opinion?
 - ii. Is it your understanding that the Postal Service expects volume to increase after implementation of network rationalization? If so, please point to where you understand the Postal Service has made known this expectation.
- e. Do you understand that the Postal Service expects volume loss caused by network rationalization will bounce back in the

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

second year after implementation? Please explain and provide the basis for your opinion.

f. Please confirm that you expect network rationalization will cause additional volume losses beyond what the Postal Service projects and beyond what has already been addressed in this interrogatory. Please i) explain your position; ii) provide citations to all authoritative sources upon which you rely (beyond your own opinion) to support your position; iii) explain how such additional volume losses can be traced causally to network rationalization alone; and iv) how large those network rationalization caused changes will be.

Witness Crew's responses to parts (a) through (c) begin (respectively):

- a. I object to subsection (a) as not reasonably calculated to lead to the discovery of admissible evidence. ...
- b. I object to subsection (b) as vague in its failure to specify what I am being asked to agree with. Without waiver of such objection, ...
- c. I object to subsection (c) as not reasonably calculated to lead to the discovery of admissible evidence.

This question seeks to explore the foundation for witness Crew's claim that the market research underestimates volume loss by, in part, exploring whether he understands both the market research design and what witness Whiteman has said about the timing of volume changes in the current macroeconomic context. The Postal Service is entitled to a full and complete response to its interrogatory. While witness Crew's response to the interrogatory does address each lettered part, the Postal Service has no way of knowing how the objection served to limit any of the responses. The Postal Service accordingly moves for a more complete response to this interrogatory, unqualified by objection.

Interrogatory USPS/NALC-T1-18 states as follows:

USPS/NALC-T1-18. On pages 11-12 you criticize the information available regarding confidence intervals.

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

- a. Please confirm that confidence intervals are provided for all customer segments.
- b. Please explain what distribution other than normal witness Elmore-Yalch should have used, providing one or more citations to authoritative sources that support your opinion.
- c. Please explain how you would calculate a confidence interval for the final change estimates in light of the market research design utilized.
- d. Please confirm that most survey research respondents reported no change in their projected post-implementation mail volumes. If you are unable to confirm, please explain why.
- e. Please confirm that when most respondents report a zero change, the likelihood that zero will be within ranges defined by particular confidence intervals (howsoever calculated) goes up. How, in your opinion and given the research design utilized, could this problem have been avoided? Please provide citations to appropriate authoritative sources for your recommendation(s).

The response to part (d) commences as follows:

I object to this interrogatory on the grounds that it is vague and that I do not have the resources or the data to compute the confidence interval for the “the final change estimates .” ... Without waiver of this objection, I ...

This question explores the foundation for witness Crew’s testimony criticizing information available about confidence intervals in light of his understanding of what is, and is not, available or possible in light of witness Crew’s understanding of the survey research results, design, and the realities of mailer response to change. This information is sought, in part, to facilitate the precision of surrebuttal testimony. The Postal Service is entitled to a full and complete response to its interrogatory. While witness Crew’s response to the interrogatory does address each lettered part, the Postal Service has no way of knowing how the objection served to limit any of the responses. The Postal Service accordingly moves for a more complete response to this interrogatory, unqualified by objection.

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

Interrogatory USPS/NALC-T1-19 states as follows:

- USPS/NALC-T1-19.** You recommend use of an econometric study to project demand (NALC-T-1 at 13-14) as you have in previous circumstances; and, of course, you are known professionally as one of multiple authors in work that utilized an econometric approach.
- a. Is an econometric study always the right or best way to study a question about future customer behavior? Please explain your response.
 - b. Are there particular circumstances in which an econometric study would face epistemological (or other) challenge? What factors add special difficulty to use of econometric techniques?
 - c. If data available to study a particular question embody a natural experiment, or if a true experiment can be undertaken with both test and control groups, does use of an econometric approach become more or less useful, or more or less practical?
 - d. What other modeling or testing approaches are considered in your professional work? Please compare their respective strengths and weaknesses with those of econometrics so as to illustrate better or weaker approaches to particular types of problems and when respective approaches are more or less likely to be productive.

The response to interrogatory USPS/NALC-T1-19 commences, and continues, as follows:

I object to the statement: "You recommend use of an econometric study to project demand" I did not make such a recommendation. Rather, I lamented USPS's employing only a market research survey, when other approaches were available for purposes of comparison and validation.

* * *

- b. I object to subsection (b) as vague.
- c. I object to subsection (d) as vague.
- d. I object to subsection (c) as vague.

* * *

This question inquires about the foundation for witness Crew's consistent advocacy of econometric projection, a subject he knows better than others, with other ways of projecting volume response to a change in service; in short, the question

INTERROGATORY OF THE UNITED STATES POSTAL SERVICE
TO NALC WITNESS CREW

inquires as to whether witness Crew is competent to testify about the comparative strengths and weaknesses of competing quantitative approaches to estimate change. The Postal Service is entitled to a full and complete response to its interrogatory; in the alternative, the Postal Service is prepared to accept a stipulation that witness Crew is not competent to testify about this subject. While witness Crew's response to the interrogatory does address each lettered part, the Postal Service has no way of knowing how the objections served to limit any of the responses. The Postal Service accordingly moves for a more complete response to this interrogatory, unqualified by objection.

WHEREFORE, the Postal Service hereby moves to compel production of more complete responses to each of the interrogatories identified above.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Kevin Calamoneri
Managing Counsel
Corporate and Postal Business Law

Daniel J. Foucheaux
Chief Counsel, Pricing & Product Support

Kenneth N. Hollies
Attorney

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3083; Fax -3084
May 6, 2012